19 43 **File No.** O. Shops & Ests. 43

Legal Dept
17. **BRANCH**

**Subject:—** Opinions under the Bombay Shops and Establishments Act 1939

P-6/12

**File No.** O Shops & Est. 1943

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184-A

C O N T E N T S

Legal Department File No. C. Shops & Estt. /1943


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4 Cs.

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11-2-43

Submitted

2. The P. & S.D. points out that section 3 of the Bombay Shops and Establishments Act, 1939, defines the "Indian Standard Time", for the purposes of that Act. The Department had under consideration the amendment of the said section of the Act so as to bring it in line with the New Standard Time. The Municipal Commissioner, Bombay and the Labour Office were in favour of the amendment of the Act. In the meanwhile the Governor-General made and promulgated Ordinance No. VI of 1943 providing for the interpretation in enactments in force in British India of references to Indian Standard Time ( p. 112, Gaz. of India, Extraordinary, dated 20-1-43). The Govt. now thinks that in view of the Ordinance No. VI of 1943 the proposed amendment of the Shops and Establishments Act, 1939, is not considered necessary. The R.L.A. is requested to confirm the said view. The view taken by the P. & S.D. is correct.

Sd/-
19/2
S.A.S.

Sd/- R.T.K.
20/2

A.R.A. Sd/-

R.L.A.
Sd/--P.N.Moos
22/2

U.R. to P & S.D. No. 1471, dated 26-2-43

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4 Cs.

Office of the R.L.A.

Attention of P. & S.D. is invited to the R.L.A's recent opinion No. 869, dated the 4th February 1943 (a copy of which is forwarded herewith for perusal). For the reasons stated in that opinion the administrator appointed under rule 38B of the Defence of India Rules can exercise the powers of a local authority under section 22 of the Bombay Shops and Establishments Act, 1939. The view taken by the Commissioner, Northern Division is correct.

Sd/- P.N.Moos
o.c. 1/3
Remembrancer of Legal Affairs.

U.R. to P. & S.D., No. 1528, dated the 1st March 1943

Mjr/10/7
4 Cs.

Office of the R.L.A.

The term "Government Offices " in section 4(1) (e)o the Bombay Shops & Establishment Act, 1939, is not exact and could be given a very wide meaning. But it does not seem that it could be held to include Government Grain Shops, Stores and Godowns. It would be safer to exempt these under section 4(1)(k) of the Act.

Sd/- P.N.Moos

o.c. 6/3

Remembrancer of Legal Affairs.

U.R. to P. & S. Deptt., No. 1657, dated 6th March 1943.

Mjr/10/7

4 Cs.

Office of the R.L.A.

The committee of the Bombay Postal Ccoperative Society Ltd. is of the view that the provisions of the Bombay Shops and Establishments Act, 1939, cannot be made applicable to its society because it is not a bank as used in the definition of the term "Commercial establishment" in section 2(3) of the Act. It however admits that the society accepts fixed deposits though it does not accept deposits on current or savings bank account. The Registrar is fo the view that the society is vocered by the Act. R.D. to whom the Committee has made a petition is of the view that as the Society accepts only fixed deposits which are not subject to withdrawal by cheque, draft or order it is not a bank and cannot therefore be brought under the Act. The question for the consideration of the R.L.A. is whether the Bombay Shops and Establishments Act, 1939, applies to persons employed in the Bombay Postal Co.operative Society, limited.

The shops and Establishm. nts Act can apply only if the Co-operative Society comes within the definition of Commercial Establishments in section 2(3) of the Act. In that list of Commercial establishments the only item which might include the co-operative society in question seems to be that of banks. The question therefore is whether the society is a bank for the purposes of the Act. Banks are institutions notoriously difficult to define. Banking legislation has avoided defining them. The English Bills of Exchange Act 1882 deals exclusively with the term "banker". The Indian Companies Act 1913 defines "banking Company" but clearly the Society is not a company for the purposes of that Act. The society accepts deposits from and makes loans to its member. The mannr of withdrawal of the deposits is not apparent from the file or the copy of the By-laws but it is clear that deposits on current accounts are not accepted. On the one hand the society does offer some banking facilities to its members. On the other hand it does not call itself a bank, is not a company for the purposes of the Companies Act, its banking facilities are available only to its members and it would certainly

not come within the commercial notion of a bank.
I think on the whole it is not a bank for the purpose of the shops and Establishments Act and so not a commercial establishment. The Committee of the Society appear to be correct in maintaining that the Act does not apply to the Society's employees, The point however is not free from doubt.

Id/- P.U.M.
27/5
Remembrancer of Legal Affairs.

L.R. to R.L. No. 389 , dated 31st May 1953.

Mjr/10/7
4 Cs.